

BARNES & THORNBURG

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April 22, 1994

Harry E. Atkinson, Chief
Site Investigation Section
INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
100 North Senate
P.O. Box 6015
Indianapolis, Indiana 46206-6015

EPA Region 5 Records Ctr.



325794

RE: Old Mishawaka Dump, Mishawaka, Indiana
U.S.EPA ID No. IND 982073215

Dear Mr. Atkinson:

By way of introduction, the undersigned are counsel for Dearborn Crane & Engineering Co. (formerly known as Dearborn Fabricating Corp. of Indiana) ("Dearborn"), which is the current owner of the property on which the Old Mishawaka Dump (the "Site") is located.

In August 1989, Timothy C. Heffernan of IDEM prepared a "Screening Site Inspection Report" for the Site. As the Site history explains, Dearborn acquired title to the property in 1955, after dumping had ceased. Since then, the City of Mishawaka has used the Site as a recycling center. Dearborn has operated a manufacturing facility on the northern portion of the property since 1955. The portion of the property used by Dearborn (the "Dearborn property") is physically separated from the dump by a fence and no dumping has taken place on the portion used by Dearborn. Nevertheless, the Site has been assigned the address of 1131 East Fifth Street, which is also the street address of the "Dearborn property."

It is apparent from the records in your files that the "Dearborn property" has never been considered by IDEM to be part of the CERCLIS Site identified as EPA IND 982073215. In April 1988, Mr. Heffernan prepared a "CERCLIS Executive Summary - State Lead" for the Site. As part of that summary, Mr. Heffernan included an area map with the "Site" outlined in black. (Copy enclosed as Attachment 1.) The area enclosed in black does not include the "Dearborn property." Similarly, in the 1989 Screening Site Inspection Report, Figures 3-1 and 3-2 (enclosed as Attachments 2 and 3), clearly shows that the area delineated as the "Site" does not include the "Dearborn property." Finally, the Site is repeatedly referred to as a 17.5 acre site (see the 1989 report, § 3.4, p. 3-2). This is less than the entire Dearborn parcel, which is approximately 22 acres.

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For various business reasons, Dearborn has been attempting to sell the "Dearborn property" for some time. In furtherance of this effort, Dearborn is in the process of severing the "Dearborn property" from the remainder of the property containing the Site. In addition, the City of Mishawaka has tentatively agreed to buy the southern portion containing the Site. However, despite the clear intent of IDEM to exclude the "Dearborn property" from the Site, local environmental consultants and prospective purchasers have, either due to lack of knowledge or an overabundance of caution, concluded that the "Dearborn property" is included within the CERCLIS Site. As a result, Dearborn has been unable to find a buyer willing to acquire the "Dearborn property."

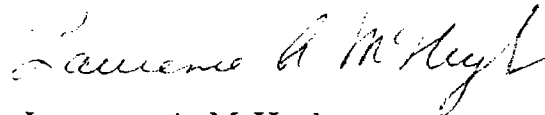
While this ongoing problem may be partially due to the lack of sophistication of consultants and prospective purchasers, we believe the primary factor leading to this erroneous conclusion is, as more than one person has commented, that the CERCLIS Site was assigned by IDEM with the street address of Dearborn. They therefore conclude that the entire Dearborn parcel, including the "Dearborn property," is included within the Site.

We therefore respectfully request your assistance in this matter. Specifically, we request confirmation from IDEM in writing that that portion of the Dearborn-owned parcel north of the north fence line of the Old Mishawaka Dump, which we have referred to as the "Dearborn property," is not included within the boundaries of the Old Mishawaka Dump CERCLIS Site, EPA ID No. IND 982073215.

If you have any questions, or desire clarification on any issue, please do not hesitate to contact me.

Very truly yours,

BARNES & THORNBURG

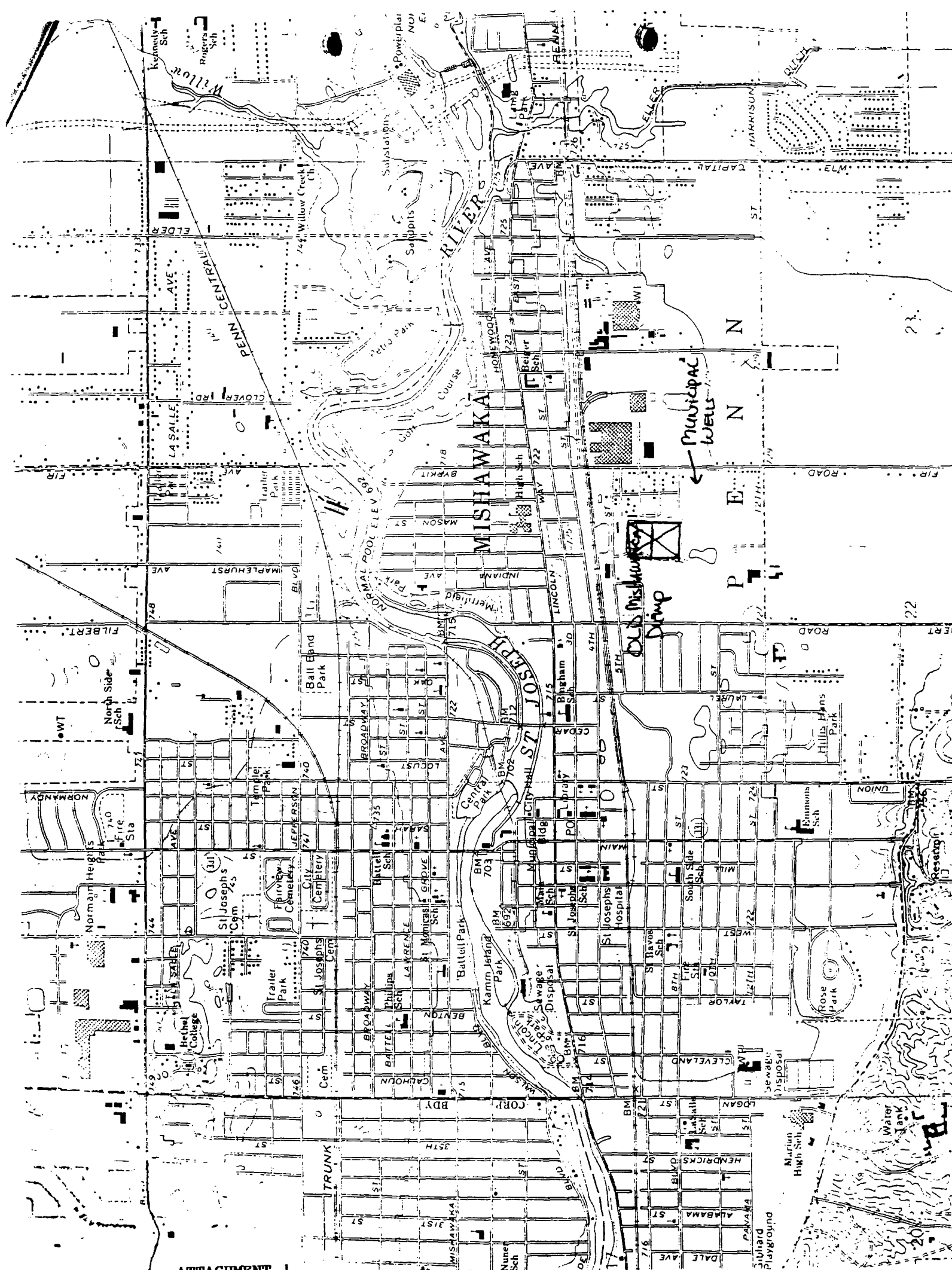


Laurence A. McHugh

LAM:clu
Enclosures
cc: Mr. Larry Dunville

LAM 43791

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RR TRACKS

SITE FEATURES

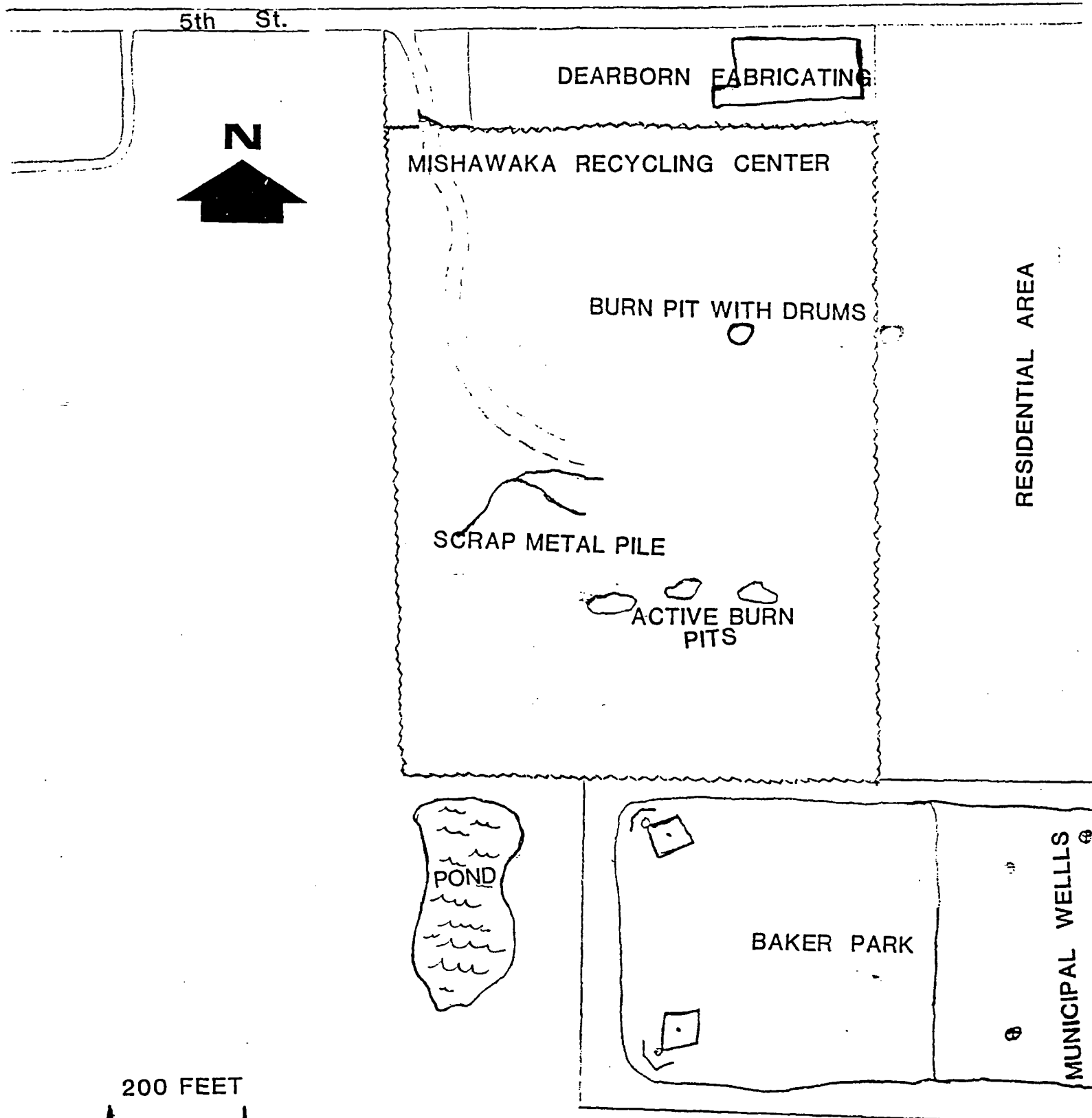
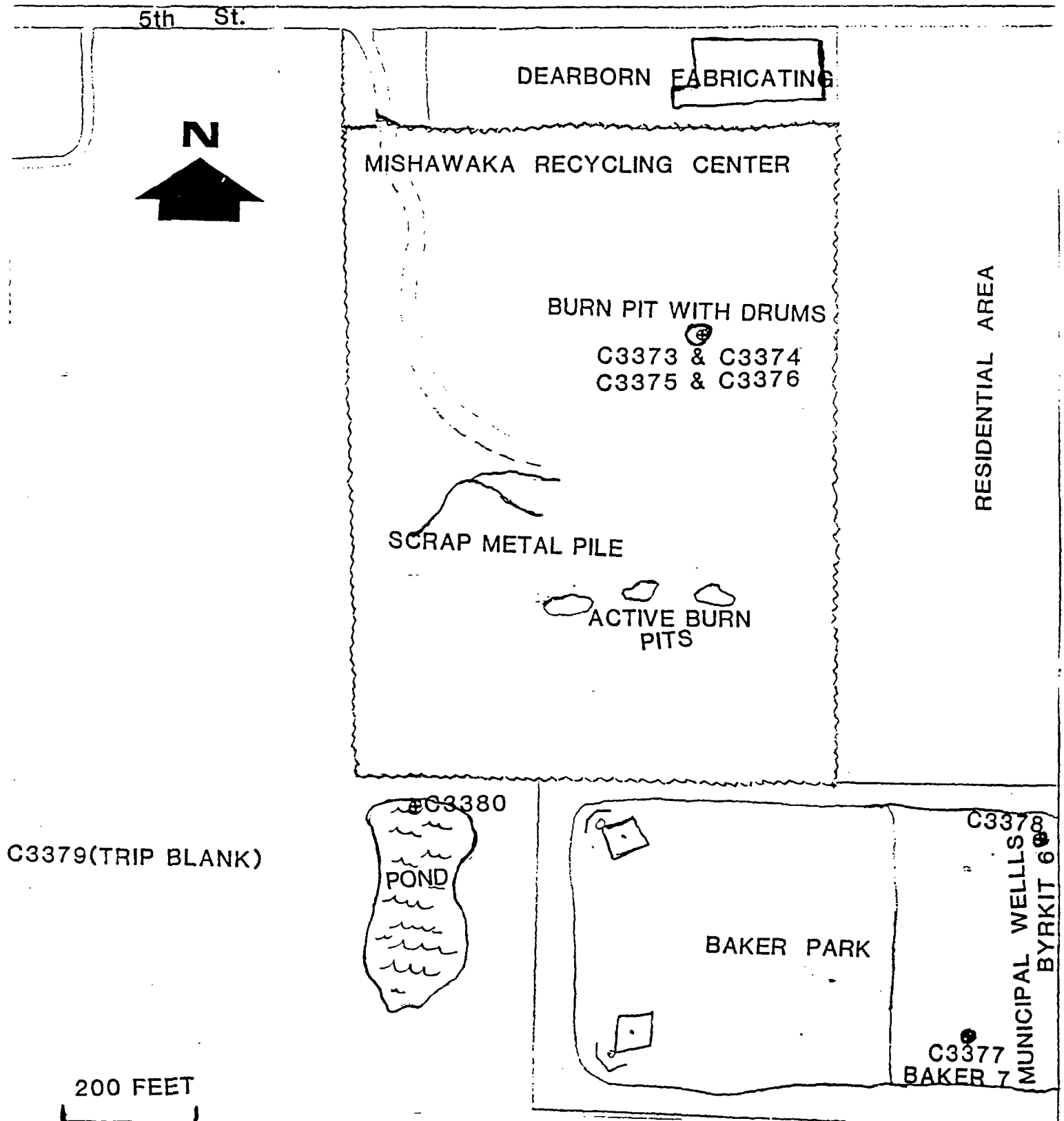


FIGURE 3-1

RR TRACKS

SAMPLE LOCATIONS



C3379(TRIP BLANK)

FIGURE 3-2